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March 23, 2005

U. S. POSTAL SERVICE DELIVERY

Charles L. A. Terreni, Esquire
Chief Clerk and Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, S.C. 29210

RECEIVED
2005 MAR 23 PM 2:21
SC PUBLIC SERVICE
COMMISSION

RE: Generic Proceeding Established Pursuant to Commission Order No. 2004-466 to Address the Appropriate Rate Classification or Rate Structure for Telephone Lines Located in Elevators and for Telephone Lines Located in Proximity to Swimming Pools

Docket No.: 2005-15-C

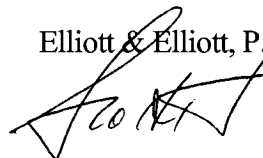
Dear Mr. Terreni:

Enclosed please find for filing an original and twenty-six (26) copies of the Direct Testimony of John E. Mitus on behalf of United Telephone Company of the Carolinas and Spring Communications Company, L.P. in the above-captioned matter, one copy I would request that you date stamp and return to me in the stamped self-addressed envelope enclosed for your convenience. By copy of this letter, I am serving all parties of record.

If you have questions, please do not hesitate to contact me.

Sincerely,

Elliott & Elliott, P.A.



Scott Elliott

SE/mlw

Enclosures

c: All Parties of Record w/enc.

ORIGINAL

**IN RE: GENERIC PROCEEDING
ESTABLISHED PURSUANT TO
COMMISSION ORDER NO. 2004-466 TO
ADDRESS THE APPROPRIATE RATE
CLASSIFICATION OR RATE STRUCTURE
FOR TELEPHONE LINES LOCATED IN
ELEVATORS AND FOR TELEPHONE LINES
LOCATED IN PROXIMITY TO SWIMMING
POOLS**

§ **PUBLIC SERVICE COMMISSION**
§ **OF SOUTH CAROLINA**
§
§ **DOCKET NO. 2005-15-C**
§

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SO PUBLIC SERVICE
COMMISSION

DIRECT TESTIMONY

OF

JOHN E. MITUS

ON BEHALF OF

**UNITED TELEPHONE COMPANY OF THE CAROLINAS AND
SPRINT COMMUNICATIONS COMPANY L.P.**

March 23, 2005

RETURN DATE: OK D. Duke
SERVICE: OK D. Duke

**DIRECT TESTIMONY
OF
JOHN E. MITUS
ON BEHALF OF
UNITED TELEPHONE COMPANY OF THE CAROLINAS AND
SPRINT COMMUNICATIONS COMPANY L.P. (COLLECTIVELY, "SPRINT")**

Q: Please state your name, title, and business address.

A: My name is John E. Mitus. I am employed by Sprint Corporation as Senior Regulatory Manager in the Department of State Regulatory Affairs. My business address is 6450 Sprint Parkway, Overland Park, Kansas 66251.

Q: Please briefly provide your educational background and work experience.

A: In 1992, I received an MBA degree from the University of Nevada – Las Vegas, and I received my Bachelor of Science in Finance from Bryant College, Smithfield, Rhode Island in 1988. I have been employed by Sprint since January, 1995. Prior to my employment with Sprint, I was employed by First Interstate Bank as a Commercial Loan Officer.

From January, 1995 until January, 2001, I held jobs in accounting and costing. Since January, 2001, I have been a part of Sprint's State Regulatory Affairs Group. In my current position I am responsible for regulatory oversight in Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Puerto Rico and the U.S. Virgin Islands. My primary responsibilities include: 1) ensuring that the policies of Sprint are implemented in the individual states within the rules and regulations of that state; and 2) providing guidance to the sales and marketing teams in determining methods and

1 procedures that meet regulatory compliance. This includes compliance of Sprint Local,
2 Long Distance and PCS services.

3
4 I have testified before the Pennsylvania Public Utility Commission, the Public Utilities
5 Commission of Nevada, the North Carolina Utilities Commission, the Public Utility
6 Commission of Texas, the Louisiana Public Service Commission, and the Public Service
7 Commission of South Carolina.

8
9 **Q: What is the purpose of your Direct Testimony?**

10 A: The purpose of this Direct Testimony is to show this Commission that there are already
11 tools in place to determine the service classification of telephony service. The rates
12 charged for the telephones at issue here are merely the cost of doing business for the
13 entities that use these phones. Changing the classification for telephones required by
14 code or regulation would cause other users to absorb the lost revenue, thus increasing the
15 cost of service for the body of South Carolina ratepayers.

16
17 **Q: Can you give some examples of what types of companies and associations would be**
18 **allowed discounts under this proposed rule change?**

19 A: Yes. As listed in Commission Order No. 2004-466, the Commission is seeking
20 "... (A)ppropriate rate classification or rate structure for telephone lines which are
21 required by code or regulation for safety or emergency use, such as telephone lines
22 located in elevators and in proximity to swimming pools." This indicates that every
23 phone located in elevators in every high rise building, business park or apartment
24 community would potentially be allowed special pricing. Furthermore, phones in

1 proximity to every pool operated by every home owners' association (HOA), apartment
2 community, health club and country club with a pool would be allowed special pricing.

3
4 **Q: Are these emergency phones just the cost of doing business?**

5 A: Yes. As can be seen in Exhibit JEM-1, *Swimming Pool Inspection Report*, a
6 "Telephone/Emergency Notification Device w/in 200' of Pool and Operational" is only
7 one of many requirements for the pool to remain open. Just going down the list, you can
8 see many additional costs of running a pool. There are first aid kits, lifelines, bathroom
9 supplies, chlorine, approved life rings, operating filtration systems and more. If the
10 telephone exception is made, one could take the theoretical next step and ask for a rate
11 reduction for the electricity required to run the filters that is required by code for safety
12 purposes. As for elevators, the Department of Labor requires annual inspections under
13 Title 41 Chapter 16-70, and Title 41 Chapter 16-140 which allows the Department of
14 Labor to assess fees on these elevators. This is in addition to the general maintenance
15 and upkeep associated with any building.

16
17 **Q: In Docket 2003-221-C, Bay Meadows Homeowners Association (BMHOA) claimed**
18 **that the emergency phones located on their property deserve special pricing since**
19 **they are infrequently used. Should use be a determining factor in the price of an**
20 **emergency phone?**

21 A: No. The end user is paying for the ability to make a call, not the actual usage of the
22 phone. Emergency phones are much like a life insurance policy that no one ever wants to
23 use.

1 **Q: Why should business rates be used for emergency phones?**

2 A: Most emergency phones being discussed here are located in places of business or areas of
3 public access such as a pool. Sprint has a Commission- approved tariff which indicates
4 how a phone is determined to be residential or business.

5
6 **Q: How does Sprint determine whether a customer is to be charged a Business or**
7 **Residential rate?**

8 A: The determination of whether a customer is charged business or residential rates can be
9 found in United Telephone Company of the Carolinas' tariff in section U2.3.4. These
10 determinations are as follow:

- 11 a. The determination of whether customer service is furnished at
12 Business or Residence rates is based on consideration of the directory
13 listing used for the service and the location of the service.
14
15 b. Service is classified and charged at Business rates where the directory
16 listing indicates business use or where it is determined that the location
17 is used primarily as a business, professional, trade or occupational
18 location.
19
20 c. Service is classified and charged at Residence rates where the
21 directory listing does not indicate business use and where the
22 telephone service is furnished at a location used primarily as a
23 residence or place of dwelling.
24
25 d. Individuals practicing a profession or operating a business and having
26 no office other than their residence may choose either Business
27 Service or Residence Service depending upon the type of directory
28 listing requested.
29
30 e. Business or Residential Services are not installed on premises of a
31 payphone line character in a location where the service would be
32 accessible for use by the patrons of the customer or by the public in
33 general.
34
35 f. Residence Service may not be a part of a hunting sequence that
36 contains business lines.
37

- 1 g. No more than five (5) residential lines terminating at a household
2 location are eligible for residence rates.
3
4 h. Changes from Business Service to Residence Service are made only in
5 the event of a change in the subscriber's arrangements which would
6 entitle him to a residence classification of his service, as shown in c. or
7 d. preceding.
8
9 i. The business telephone number may be continued for the Residence
10 Service only if all the facts indicate that the service can no longer be
11 classified as Business Service as indicated in b. preceding. Service
12 Connection Charges, which apply for these changes, are shown in
13 Section U4. of this tariff.
14
15 j. Changes from Residence Service to Business Service may be made
16 without change in telephone number, if the subscriber so desires.
17 Service Connection Charges, which apply for these changes, are
18 shown in Section U4. of this tariff.
19

20 Sprint Communications L.P. also has a tariff in place for its competitive local exchange
21 service which also distinguishes between business and residential phones. Section 2.5.4
22 and 2.5.5 of the Sprint Communications L.P. tariff is attached as Exhibit JEM-2.
23

24 **Q: Under the guidelines listed above, how would Sprint determine which service type**
25 **BMHOA would fall under?**

26 A: BMHOA would be classified as a business line under United Telephone Company of the
27 Carolinas' tariff for two reasons. First under section "c" the lines are not terminating "at
28 a location used primarily as a residence or place of dwelling". These lines are
29 terminating at either an elevator or poolside, neither of which could be considered a
30 primary dwelling. Secondly, the customer has 8 lines¹ terminating at the location and
31 section "g" allows up to and including 5 lines to be deemed residential.

¹ Public Service Commission of South Carolina Order No. 2004-466, footnote
1 page 3.

1

2 **Q: Does Sprint charge different rates to Business and Residential customers?**

3 A: Yes. For example in Beaufort we charge \$14.77 for a residential line and \$31.67 for a
4 business line.

5

6 **Q: Why does Sprint charge different rates to Business and Residential customers?**

7 A: Without going into a great deal of detail on the history of pricing, the charging of
8 different rates between business and residential dates back to the days when telephone
9 companies were monopolies and rate-of-return regulated. One way for the Commission
10 to provide universal service to residential customers was to make it as affordable as
11 possible, usually below cost, to the end-user. The Commission was able to do this by
12 having the telephone companies set rates for items other than residential basic local
13 service significantly above cost. The items significantly above cost included access and
14 custom calling features. Business rates were generally set at some multiple of the
15 residential rate thus helping keep the basic residential rates as low as possible.


16

17 **Q: What would happen if the Commission did create special pricing for emergency**
18 **phone services?**

19 A Sprint, with Commission approval, has had business rates for emergency phones in place
20 for many years. If the Commission were to change the pricing structure of these phones,
21 then Sprint would seek to recover these lost revenue streams from rate increases to all
22 basic local service users.

23 **Q: Does this conclude your Direct Testimony?**

24 A: Yes.

 DEPARTMENT OF HEALTH & ENVIRONMENT DIVISION OF PUBLIC WATER	Swimming Pool Inspection Report Bureau of Water	Facility: _____ Permit #: <u>March 23, 2005</u> - _____ District: _____ Date: ____/____/____ Time: ____
Pool Type: A B C D E F Indoor Outdoor	Inspection Type: Routine Preseason Follow-up TAV	
Number of Swimmers in Pool _____	YES NO N/A	Comments
01. Pool Open for Public Use		* = Immediate Closure Item All other deficiencies must be corrected within ____ days or closure may result.
02. First Aid Kit Available During Hours of Operation		
03. Lifeline w/Floates in Place		
04. Depth Markers on Deck and Walls & Marked in "Feet" or "Ft"		
05. Ladders and Handrails Tight and Secure		
06. Pool Wall and Floor Clean; Pool Free of Algae		
07. Deck Clean and Clear of Hazards		
08. Skimmers or Gutter Operating Properly		
09. Water Level at Middle of Skimmer or Lip of Gutter		
10. Diving Board Maintained in Safe Condition		
11. Back-Flow Prevention Device on Hose Bibbs		
12. Bathroom: Soap, Paper, Handtowel/Dryer, Shatter-Resistant Mirrors		
13. Chlorine 1.0-5.0 ppm (____), Bromine 2.3-11 ppm (____) *		
14. pH Level 7.2-7.8 (____) *		
15. Main Drain Grates Visible *		
16. Main Drain Grates in Place and Unbroken *		
17. 20" USCG Approved Life Ring w/Rope Attached (Type B) *		
18. Shepherd's Crook w/12" Handle Permanently Attached (Type B) *		
19. Lifeguard(s) on Duty (Type A&E) *		
20. Rescue Tube (Type A&E) (Required for Each Lifeguard) *		
21. Blankets, Backboard, Collar or Immobilizer Present (Type A&E) *		
22. Telephone/Emergency Notification Device w/in 200' of Pool and Operational *		
23. Spa Temp. Max 104°F (____°F) & Temp. Monitored *		
24. Current Operating Permit Posted *		
25. All Required Pool/Spa Rules Posted *		
26. Two "SHALLOW WATER (4') NO DIVING (6') Signs Posted *		
27. Two "NO LIFEGUARD ON DUTY(6')-SWIM AT YOUR OWN RISK(4') Signs Posted *		
28. Certified Pool Operator Sign Posted (or Added to Pool Rules Sign) *		
29. S.C. Certified Pool Operator Requirement Met *		
30. Bound and Numbered Pool Log Available and Maintained Daily *		
31. Disinfection Equipment Operating *		
32. Recirculation and Filtration System Operating *		
33. Automatic Controller Operating *		
Pool Closed Due to Unsatisfactory Inspection		
<input type="checkbox"/> Call _____ For Reinspection Prior to Reopening	<input type="checkbox"/> Reopen When Corrections are Made	
<input type="checkbox"/> IF THIS BOX IS MARKED, THIS CONSTITUTES A VIOLATION OF THE STATE RECREATIONAL WATERS ACT, CODE SECTION 44-55-2310, et. seq.		
The Number of Violations Issued to this Facility During the Current Swimming Season _____. Accrual of Violations May Lead to Enforcement Action.		
I certify that the inspector has supplied me with a copy of this report and has explained any deficiencies noted.		
DHEC Inspector: _____		Facility Representative: _____

Sprint Communications Company L.P.

South Carolina P.S.C. Local Exchange Tariff No. 1
1st Revised Page 35
Cancels Original Page 35

LOCAL EXCHANGE SERVICES

2. General Regulations (Continued)

2.5 Application for Service (Continued)

2.5.4 Residential Customers

Generally, residential rates apply at residential locations. The determination as to whether the Customer's service should be classified as residential is based on the character of use to be made of the service. *Residential rates apply for:*

(T)

(D)

1. Private residence locations including all parts of the subscribers establishment where service is furnished for domestic use.
2. Subscribers residing in private apartments in hotels, clubs, hospitals, and boarding houses who request their own individual residential service when business listings are not employed.
3. Subscribers residing in college sorority or fraternity houses who order their own individual residence service for their rooms.

2.5.5 Business Customers

(N)

Business rates apply whenever the use of the service is primarily or substantially of a business, professional institution or otherwise occupational nature, or where the listing required is such as to indicate business use. Business rates apply for:

1. *Offices, stores, factories, boarding houses, offices of hotels and apartment houses, colleges, public private or parochial schools, hospitals, nursing homes, libraries, institutions, churches and all other places of strictly business nature.*
2. *Any location where a business designation is provided or when any title indicating a trade, occupation or profession is listed.*
3. *Service terminating solely on the answering service facilities of a telephone answering firm will carry business rates.*

(N)

ISSUED:
July 30, 2003

State Tariffs
6450 Sprint Parkway
Overland Park, Kansas 66251

EFFECTIVE:
August 4, 2003

CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

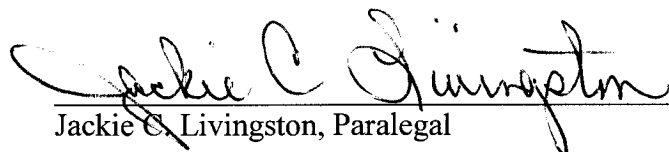
RE: Generic Proceeding Established Pursuant to Commission Order No. 2004-466 to Address the Appropriate Rate Classification or Rate Structure for Telephone Lines Located in Elevators and for Telephone Lines Located in Proximity to Swimming Pools

DOCKET NO.: 2005-15-C

PARTIES SERVED:	John F. Beach, Esquire Ellis, Lawhorne & Sims, PA P. O. Box 2285 Columbia, SC 29202	Florence P. Belser, Esquire ORS P. O. Box 11263 Columbia, SC 29211
	Rufus S. Watson, Jr. 4700 Touchey Drive #7 Myrtle Beach, SC 29579	Margaret M. Fox, Esquire South Carolina Telephone Coalition PO Box 11390 Columbia, SC 29211
	Stan Bugner State Director Verizon South, Inc. 1301 Gervais Street, Ste. 825 Columbia, SC 29201	Patrick W. Turner, Esquire BellSouth Telecommunications, Inc. 1600 William Street, Suite 5200 Columbia, SC 29201
	Steven W. Hamm, Esquire Richardson Plowden Carpenter & Robinson, PA P. O. Box 7788 Columbia, SC 29202	

PLEADING: DIRECT TESTIMONY OF JOHN E. MITUS ON BEHALF OF
UNITED TELEPHONE COMPANY OF THE CAROLINAS AND
SPRINT COMMUNICATIONS COMPANY L.P.

March 23, 2005


Jackie C. Livingston, Paralegal

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